



# Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

## **MEMORANDUM**

**Date:** June 17, 2016

**To:** Robert Best, Chairman, & Members, Planning Board

**From:** Jillian M. Harris, AICP, Planning & Zoning Administrator

**Subject:** **Gregory E. Michael, Esquire (applicant) for 427 D.W. Highway, LLC. (owner)** – Review for acceptance and consideration of a waiver of full site plan review to construct a third Multi-Family residential unit. The parcel is located at 427 D.W. Highway in the C-2, (General Commercial), and Elderly, Town Center and Aquifer Conservation Overlay Districts. Tax Map 5D-4, Lot 076.

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### **Background**

The subject property is an approximately 0.35 acre lot located at 427 D.W. Highway. The property lies within the C-2 (General Commercial) District, and Elderly, Town Center and Aquifer Conservation Overlay Districts. The property is abutted by a multi-family residential building to the Northwest, Rivet's Funeral Home to the Southeast, and vacant land to the North/rear as well as across the street from the Prime Gas Station. The parcel is currently serviced by MVD water and municipal sewer.

Since 2015, the property has been redeveloped from an existing house, barn and shed to a residential duplex and a detached 3-car garage with associated site improvements. The petitioner received a variance on April 27, 2016 under Section 3.02 to permit the creation of a third dwelling unit in the existing detached garage on a property with 15,200 square feet whereas 120,000 square feet is required (40,000 sq. ft. per dwelling unit).

Previously the applicant received a variance in March 2015 to construct a 24' x 36' three car garage 2.3 feet from the side property line whereas 15 feet is required and 5 feet from the rear property line whereas 40 feet is required. In addition, the applicant received a variance in August 2015 to permit the construction of a farmer's porch 21.80 ft. from the front property line whereas 30 ft. is required and again in November 2015 to permit the construction of an additional 24'x32' two car garage 2.3 feet from the side property line whereas 15 feet is required.

As of the writing of this memo, a sewer connection issue is being corrected after being discovered during the weekend of June 11-12, 2016. Communication from the Wastewater Division informs us that the connection stub for Town sewer was found by Wastewater Division staff and excavated by the owner's contractor on June 16. The owner's contractor is currently making the building connection to the connection stub. The old line has been disconnected and capped.

### **Completeness**

Staff recommends that the Board carefully consider whether to accept the application, and determine if it is substantially complete and contains sufficient information to invoke the Board's jurisdiction and to allow the Board to make an informed decision. The Board will need to determine

if the presented exhibit plan is satisfactory, if the applicant can make additional changes to make it satisfactory, or if a fully engineered plan is more appropriate for this use.

### **Waivers**

Outside of a Waiver of Full Site Plan Review, no other waivers have been requested.

**Should any waivers be determined necessary, staff recommends *that they be provided in writing to the Board*, and that the Board vote with respect to any requested waivers utilizing the criteria from RSA 674:44:**

- Strict conformity would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations; **or**
- Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations.

### **Parking**

Staff has determined that 10.25 parking spaces are required because 1.25 spaces are required per bedroom, plus 0.5 per dwelling unit. The existing duplex has 4 bedrooms per the applicant and the third dwelling unit is proposed to have 3 bedrooms. The provided plan shows 5 garage parking spaces and 3 existing parking spaces, as well as 5 proposed parking spaces. Architectural plans were not submitted and it is unclear if garage parking spaces are proposed to be converted to apartment space. Staff recommends clarifying the current and proposed parking spaces with the applicant to determine compliance. The applicant should also clarify if any of the spaces on the property are dedicated to the Funeral Home use as well.

The plan indicates an encroachment of pavement/parking from the abutting property (5D-4/77), also owned by Mark Rivet, which appears to have existed for a number of years. The Board should determine if any action is necessary by the applicant to address this encroachment (such as the applicant providing documentation of an easement).

### **Stormwater**

The applicant indicates that during the construction of the duplex and detached garage leaching catch basins were added to the site to help mitigate some of the existing improvements. A stormwater report that includes drainage calculations was not included in the submission materials with this application, although the engineer indicates that they do not anticipate any negative impacts resulting from the construction of the additional parking spaces to support the third residential unit.

### **Recommendation**

**Staff recommends that should the Board grant conditional final approval to the application, it is granted with the following precedent conditions to be fulfilled within 6 months and prior to plan signing, unless otherwise specified:**

1. Final plans to be signed by all property owners and signed and sealed by all appropriate professionals;
2. The applicant shall obtain all required State approvals/permits as may be applicable, note the approvals/permits on the plan and provide copies to the Community Development Department;

3. Any waivers granted (including Section and date granted) or any changes requested by the Planning Board shall be listed and fully described on the final plan, as applicable;
4. The applicant shall provide draft copies of any applicable legal documents for review, at the applicant's expense, by the Town's Legal Counsel;
5. The applicant shall address any forthcoming comments from the Building Department, as applicable;
6. The applicant shall address any forthcoming comments from the Conservation Commission, as applicable;
7. The applicant shall address any forthcoming comments from the Merrimack Village District, as applicable;
8. The applicant shall address any forthcoming comments from the Wastewater Division, as applicable;
9. The applicant shall address the following Planning Staff Technical Comments:
  - a. Applicant to note the variances granted by the ZBA for this property;
  - b. Applicant to clarify required and available parking spaces on the plan;
  - c. Applicant to note any applicable easements on the plan & HCRD Book & Page information;
  - d. Applicant to note the number of bedrooms per each unit on the exhibit plan;
  - e. Applicant to include existing/proposed utility lines on the property to their connection in the ROW.
  - f. Applicant to correct ownership of parcel 5D-4/77 from Main Street to P.O. Box 86.

**Staff also recommends that the following general and subsequent conditions be placed on the approval:**

1. The applicant shall address the following comments from the Fire Department, as applicable;
  - a. As this proposal constitutes a change of use from a residential property to a mixed use property the entire building shall be protected by an approved NFPA-13 compliant fire sprinkler system. (Town of Merrimack Building Zoning Ordinance and Building Code, Section 11) Plans shall be provided to this office for review and approval before a permit can be issued;
  - b. The building shall be protected by an approved NFPA-72 fire alarm system. Plans shall be provided to this office for review and approval before a permit can be issued;
  - c. The new building shall be address as 427 B Daniel Webster Highway with the apartment addressed as 427B Unit 1.

2. A certified plot plan is required per Section 6 of the Merrimack Subdivision & Site Plan Review Regulations for a certificate of occupancy;

Cc: Planning Board File  
Correspondence

Ec: Mark Rivet (applicant/owner)  
Chad Branon, PE (Fieldstone Land Consultants)  
Assessing Department Staff  
Building Department Staff  
Conservation Commission  
John Manuele, Merrimack Fire Department  
Mark Doyle, Police Department  
Kyle Fox, Public Works Department

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